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March 15, 2023

BY ECF

The Honorable Lorna G. Schofield
United States District Court for the Southern District of New York
Thurgood Marshall Courthouse
40 Foley Square
New York, New York 10007

Re: McKoy, et al. v. The Trump Corp., et al., No. 18 Civ. 9936

Dear Judge Schofield:

We write on behalf of Plaintiffs and the putative classes in brief response to the March 14, 2023 letter filed by ACN Opportunity, LLC (“ACN”), ECF 539, concerning the proposed sealing of discovery material that ACN designated “Confidential” pursuant to the Protective Order entered in this action (the “ACN Discovery”), ECF 112.

As previously noted, Plaintiffs take no position with respect to the balancing of the public’s right of access to judicial materials with ACN’s assertion of a confidentiality interest in the ACN Discovery. *See Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 126 (2d Cir. 2006).

However, in response to ACN’s strange invocation of its confidentiality agreements, ECF 539 at 2, we do wish to clarify that none of the material cited in or submitted with our class certification motion was obtained by Plaintiffs during the course of their business relationships with ACN. Instead, all of the ACN Discovery cited or referenced in our papers was obtained through the non-party subpoena that we served on ACN in September 2019 and that this Court enforced in April 2020, ECF 232. As a result, the ACN Discovery—and the determination whether or not it should be sealed—has nothing to do with confidentiality agreements that on their face governed a business relationship that ended years ago.

We are available as directed should the Court have any questions.

Respectfully submitted,



John C. Quinn

cc: Counsel of Record (via ECF)